

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

James E Bethea,)	Civil Action No.: 2:11-631-MBS-BHH
)	
Petitioner,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Warden of FCI Edgefield,)	
)	
Respondent.)	

The Petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2241. On May 27, 2011, the respondent filed a motion to dismiss. On June 1, 2011, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), an order was mailed to the petitioner's last known address: James E. Bethea, #04286-000, Federal Correction Institution, PO Box 725, Edgefield, SC 29824, advising him of the summary dismissal procedure and the possible consequences if he failed to respond adequately. The envelope containing this order was returned to the court as the petitioner is apparently no longer incarcerated at Federal Correction Institution Edgefield. This order was also sent to petitioner at CCM Washington DC, Community Corrections Office, 302 Sentinel Drive, Suite 200, Annapolis Junct., MD 20701. The envelope containing this order was returned as well.

The record reveals that the Order advising the petitioner of his responsibility to notify the court *in writing* if his address changed was also returned on April 20, 2011. A check by the Clerk's Office of the BOP Inmate Locator indicates that petitioner was released on May 18, 2011.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack

of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce Howe Hendricks
United States Magistrate Judge

July 12, 2011

Charleston, South Carolina

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
Post Office Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).